

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of California Water Service Company (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Antelope Valley District by \$437,218 or 36.94% in fiscal 2006-2007, by \$145,000 or 8.94% in fiscal 2007-2008, and by \$145,000 or 8.21% in fiscal 2008-2009.

And Related Matters

Application 05-08-006

Application 05-08-007
Application 05-08-008
Application 05-08-009
Application 05-08-010
Application 05-08-011
Application 05-08-012
Application 05-08-013

(Filed August 8, 2005)

**JOINT MOTION OF CALIFORNIA WATER SERVICE COMPANY (U-60-W) AND
THE DIVISION OF RATEPAYER ADVOCATES TO APPROVE STIPULATION
CONCERNING RATE BASE EQUALIZATION ACCOUNT (RBEA) SETTLEMENT**

DIVISION OF RATEPAYER ADVOCATES
JASON REIGER
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102
Telephone: (415) 355-5596
Fax: (415) 703-2262
E-mail: JZR@cpuc.ca.gov

Dated: March 2, 2006

BINGHAM McCUTCHEN, LLP
GREGORY BOWLING
TODD PICKLES
Three Embarcadero Center
San Francisco, California 94111
Telephone: (415) 393-2000
Fax: (415) 393-2286
E-mail: gregory.bowling@bingham.com

Attorneys for California Water Service Company

I. INTRODUCTION

Pursuant to Rules 51.1 *et seq.* of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), applicant California Water Service Company (U 60 W) (“Cal Water”) and the Division of Ratepayer Advocates (“DRA”) hereby move on behalf of all parties that the Commission grant this motion seeking approval of a stipulation concerning the Rate Base Equalization Account (RBEA) Settlement (“Settlement”).¹ The Settlement is attached to this motion as Attachment A. The Settlement fulfills the criteria that the Commission requires for approval of such stipulations. As explained below, the Settlement is reasonable in light of the whole record, consistent with the law, and in the public interest. Moreover, the Settlement commands the unanimous support of all parties in this consolidated proceeding. For these reasons, the Commission should grant this motion and adopt the Settlement in its decision in this matter.

II. STATEMENT OF FACTS

A. Procedural Background

As the Commission knows, Cal Water filed eight rate applications last August for its Antelope Valley, Bear Gulch, Dominguez-South Bay, Hermosa-Redondo, Kern River Valley, Marysville, Palos Verdes, and Redwood Valley Districts. As part of these applications, Cal Water proposed a Rate Base Equalization Account (“RBEA”) for the Antelope Valley, Kern River Valley and Redwood Valley Districts. (*See, e.g.*, Exhibit E-AV at 41-43). DRA protested the applications on September 9.

At the prehearing conference, Administrative Law Judge (“ALJ”) McVicar consolidated the eight applications and discussed the numerous issues raised in the proceeding, including the proposed RBEA and low income assistance programs. (Transcript at 43:16-46:28; 49:4-50:15). At the prehearing conference, it was agreed that Cal Water should provide notice of the proposed RBEA to customers in all twenty-four of its districts since customers in all districts would be potentially impacted if the proposal were adopted. (*Id.* at 52:15-53:14). After consulting with the Commission

¹ Because the Settlement resolves only one issue raised in this proceeding, it is technically a stipulation under Rule 51.

concerning the contents of the notice, Cal Water provided notice of its proposed RBEA to all customers. On September 26, the Commission issued a Scoping Memo and Ruling of Assigned Commissioner (“Scoping Memo”) which identified the issues raised in the applications, including the proposed RBEA. Scoping Memo at 2.

Several organizations and individuals intervened in the proceeding last Autumn, including the Lucerne Community Water Organization (“LCWO”) in the Lucerne division of Redwood Valley, Jeff Young (“Young”), a property owner in the Coast Springs division of Redwood Valley, Marcos Pareas (“Pareas”), another property owner in Coast Spring, Jack Miller (“Miller”) in the Unified Service Area of Redwood Valley, and the Leona Valley Cherry Growers Association (“LVCGA”) in Antelope Valley.²

During the week of December 19, 2005, ORA submitted its reports and testimony, including Exhibit DRA-11 relating solely to the proposed RBEA. On January 9, 2006, Cal Water served its rebuttal testimony, including Exhibit CWS-4 which responded to ORA’s exhibit concerning the RBEA.

Settlement discussions began in mid-November and have continued since then. Cal Water, DRA and all of the Intervenor participants participated in portions of the settlement discussions relating to the RBEA initially proposed by Cal Water. These discussions also took place during the evidentiary hearings which were held at the Commission from January 24 to January 31. As a result of these discussions, an agreement has been reached to resolve the RBEA issue raised in the company’s applications. The parties documented their agreement in the attached Settlement.

B. Rate Support Fund

All of the parties agree that some form of rate assistance is appropriate for the Antelope Valley, Kern River Valley, and Redwood Valley Districts, based upon consideration of the affordability of rates and public comment. However, instead of adopting Cal Water’s originally proposed RBEA, the parties have instead agreed to a

² Where appropriate, LCWO, Young, LVCGA, Pareas and Miller will be collectively referred to as the “Intervenors.”

Rate Support Fund (“RSF”) mechanism.³ As set forth in Attachment A, the RSF will support two types of benefits: (1) a general rate assistance benefit to all customers in the Redwood Valley, Kern River Valley and Fremont Valley area in Antelope Valley; and (2) a targeted benefit to qualifying low income customers in all three RBEA proposed districts – Antelope Valley, Kern River Valley and Redwood Valley (Lucerne, Coast Springs, and Unified). (Agreement at 2.) The RSF will be funded via a volumetric surcharge on every unit of water sold by Cal Water in all twenty four of its districts, or a per customer charge for un-metered customers on a flat rate. (*Id.* at 5.) The duration of the RSF is this general rate case cycle. The RSF credits and surcharges will be booked in a single balancing account by Cal Water. (*Id.*) The precise details of the parties’ agreement are spelled out in the attached Settlement.

Based upon this all party agreement to implement the proposed RSF, Cal Water and DRA have filed this joint motion on behalf of all parties requesting the Commission approve a stipulation adopting the Settlement. All parties have now executed the attached Settlement. As the Settlement provides, “The Parties, by signing this Agreement, acknowledge that they pledge support for Commission approval and subsequent implementation of all the provisions of the Agreement.” Settlement at 1.⁴ Thus, Cal Water and DRA are filing and signing this motion on behalf of all parties.

III. DISCUSSION

Rule 51.1(e) requires that a stipulation or settlement be “reasonable in light of the whole record, consistent with law, and in the public interest.” Also, because the Settlement is sponsored by all parties, the standard articulated in *Re San Diego Gas & Elec.*, D. 92-12-019, 46 CPUC 2d 538, 552-553 (1992), applies as well. Under that standard, the Commission will approve settlements where (1) they are sponsored by all

³ While Cal Water and DRA analyzed the impact of high rate base per customer in their reports, it was only one of the factors used to decide which districts should be eligible for a benefit. As explained in the Settlement, actual numerical recommendations for rate assistance are based on a per customer benefit and are not tied to rate base. (Settlement at 2.)

⁴ The Settlement also provides that, “The Parties shall use their best efforts to obtain Commission approval of the Agreement. The Parties shall jointly request that the Commission: (1) approve the Agreement without change; and (2) find the Agreement to be reasonable, consistent with law and in the public interest.” (Settlement at 6, ¶ 12.)

active parties, (2) those parties are fairly representative of the affected interests, (3) the settlement does not contravene the law, and (4) the settlement documents provide the Commission with the information needed to discharge its regulatory obligations. (*Id.*) The Settlement here satisfies the criteria in both Rule 51.1(e) and D. 92-12-019. The Commission should approve this motion and stipulation, and adopt the Settlement which is supported by each party.

A. The Settlement Is Reasonable

The reasonableness of the Settlement is supported by DRA's reports and testimony, by the testimony, reports and rebuttal testimony of Cal Water, and by the testimony and exhibits offered by the Intervenors in this proceeding. In addition, the parties considered the affordability of the rates in the districts (*i.e.*, income levels, usage levels, rate base per customer, availability of public loan funds, and average bills), public comments at the Public Participation Hearings, letters to the Commission and DRA, as well as the impact of extraordinary water quality problems. (Settlement at 1-2.) The parties fully considered the facts and the law. Following extensive settlement negotiations, the parties reached a reasonable compromise on the RBEA issue which was in contention. The settlement negotiations were accomplished at arm's length over the course of numerous days.

B. The Settlement Is Lawful

The parties are aware of no statutory provision or prior Commission decision that would be contravened or compromised by the Settlement. Indeed, the Settlement here moves water rates towards affordability for the Fremont Valley, Kern River Valley, and Redwood Valley Cal Water customers. The Commission's recent Water Action Plan provides that the Commission, "will develop options to increase affordability of water service for [low income] customers" (Water Action Plan at 5.) The issues resolved in the Settlement are clearly within the scope of the proceeding. Moreover, the Settlement if adopted would result in just and reasonable rates.

C. The Settlement Serves The Public Interest

Also, the Settlement is in the public interest. The Commission has explained that a settlement which "commands broad support among participants fairly reflective of the affected interests" and "does not contain terms which contravene statutory provisions or

prior Commission decisions” well serves the public interest. *Re San Diego Gas & Elec.*, D. 92-12-019, 46 CPUC 2d at 552. In this proceeding, all of the parties have agreed on the RSF after extensive negotiations. The parties fairly represent the affected interests. Cal Water provides water service to the customers in the relevant districts, and DRA is statutorily mandated with representing ratepayers in California, including those districts not directly at issue in this consolidated proceeding. Also, the Intervenor is Cal Water ratepayers and they come from Cal Water districts that the proposed RSF would benefit.

The principal public interest affected by this proceeding is the delivery of safe, reliable water service at reasonable rates. The Settlement advances this interest. In addition, Commission approval of the Settlement will provide speedy resolution of contested issues, will save unnecessary litigation expense, and will conserve Commission resources. The Commission has acknowledged that “[t]here is a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation.” *Re PG&E*, D. 88-12-083, 30 CPUC 2d 189, 221.

D. The Settlement Conveys Sufficient Information

In addition, the parties believe that the Settlement conveys sufficient information for the Commission to discharge its future regulatory obligations.

Thus, taken as a whole, the Settlement satisfies the Commission’s standards for approving stipulations presented to it.

IV. CONCLUSION

For the reasons stated above, Cal Water and DRA request on behalf of all parties that the Commission grant this motion and adopt the Settlement attached hereto.

Dated: March 2, 2006:

Respectfully submitted,

BINGHAM McCUTCHEN, LLP
GREGORY BOWLING
Three Embarcadero Center
San Francisco, CA 94111
Telephone: (415) 393-2000
Fax: (415) 393-2286
E-mail: gregory.bowling@bingham.com

By: _____

Gregory Bowling
Attorneys for Applicant
California Water Service Company

DIVISION OF RATEPAYER ADVOCATES
JASON REIGER
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102
Telephone: (415) 355-5596
Fax: (415) 703-2262
E-mail: JZR@cpuc.ca.gov

By: _____

Jason Reiger
Attorneys for
Division of Ratepayer Advocates

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**JOINT MOTION OF CALIFORNIA WATER SERVICE COMPANY (U-60-W) AND THE DIVISION OF RATEPAYER ADVOCATES TO APPROVE STIPULATION CONCERNING RATE BASE EQUALIZATION ACCOUNT (RBEA) SETTLEMENT**” in Application 05-08-006, et al. by using the following service:

[X] **E-MAIL SERVICE:** sending the entire document as an attachment to an e-mail message to all know parties of record to this proceeding who provided e-mail addresses.

[X] **U.S. MAIL SERVICE:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed in San Francisco, California, on the 2nd day of March, 2006.

/s/ ANGELITA F. MARINDA
Angelita F. Marinda

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.